

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

PATTIE BUSBY,

Plaintiff,

:

Case No. 3:14-cv-410

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

- vs -

BANK OF AMERICA, N.A., et al.,

Defendants.

:

DECISION AND ORDER DENYING MOTION TO COMPEL

This case is before the Court on Plaintiff's Motion to Compel Discovery (Doc. No. 46). She attaches thereto the Responses and Objections of the Bank of America Defendants to her Requests for Production, Requests for Admission, and Interrogatories, served on her on May 4, 2015 (PageID 1170-72). Those requests for discovery are all embodied in one document served on the Bank of America Defendants on March 31, 2015, and also attached (PageID 1173-79). Thus Mrs. Busby properly waited until after the March 26, 2015, scheduling conference to propound discovery.

Defendants provided no discovery, but instead objected that the Magistrate Judge had filed a case-dispositive Report and Recommendations on April 3, 2015. They indicated they would respond more particularly if Judge Rose rejects the report (PageID 1171).

Mrs. Busby brings her Motion under Fed. R. Civ. P. 37. That Rule provides in pertinent part that a motion under the Rule “must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” The instant Motion contains no certification to that effect and is denied on that basis, without prejudice to its renewal with proper certification after Judge Rose rules on the pending Report and Supplemental Report (Doc. Nos. 31, 36).

Mrs. Busby takes the occasion of her Motion to note that she “is also troubled by the vigor with which a litigant accused Merz of wrongdoing in *Newsome v. Merz*, 17 Fed. Appx. 343 (6th Cir. 2001).” The Magistrate Judge would call to her attention that at the very end of its opinion, the Sixth Circuit found Mr. Newsome’s allegations so frivolous that it invited the Magistrate Judge to file a bill of costs and attorney fees. That was done and sanctions were awarded by the panel against Mr. Newsome, who, because of this and other abuses of the judicial system, is enjoined from filing cases in this Court *in forma pauperis*.

May 28, 2015.

s/ *Michael R. Merz*
United States Magistrate Judge